

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 16, 2017**

A meeting of the Louisville Metro Planning Commission was held on February 16, 2017 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Vince Jarboe, Chair
Marilyn Lewis, Vice Chair
Jeff Brown
Rich Carlson
Laura Ferguson
Lula Howard
Rob Peterson
Emma Smith
David Tomes

Commission members absent:

Marshall Gazaway

Staff Members present:

Emily Liu, Planning Director
Joseph Reverman, Planning Assistant Director
Brian Davis, Planning Manager
Joe Haberman, Planning Manager
Steve Hendrix, Planning Supervisor
Brian Mabry, Planning Supervisor
John Carroll, Legal Counsel
Paul Whitty, Legal Counsel
Jim Carey, Legal Counsel
Beth Jones, Planner II
Laura Mattingly, Planner I
Tammy Markert, Engineering Supervisor
Pamela M. Brashear, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

FEBRUARY 2, 2017 PLANNING COMMISSION REGULAR MEETING MINUTES

On a motion by Commissioner Tomes, seconded by Commissioner Peterson, the following resolution was adopted.

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on February 2, 2017.

The vote was as follows:

YES: Commissioners Brown, Carlson, Ferguson, Howard, Peterson, Smith, Tomes and Jarboe

NOT PRESENT FOR THIS CASE: Commissioner Gazaway

ABSTAINING: Commissioner Lewis

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BUSINESS SESSION

Training Webinar Presented by PDS Staff

Request: Training Webinar Presented by PDS Staff

Discussion

01:58:10 Ms. Liu stated this training webinar is about managing Planning Commission meetings.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

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BUSINESS SESSION

CASE NO. 17MISC1001

Case Number: 17MISC1001
Request: Subdivision Bond Forfeiture
Staff Case Manager: **Paul Whitty, Assistant Jefferson County Attorney**

Discussion

00:05:11 Mr. Whitty was contacted by MSD to request a bond forfeiture for the Hardwood Forest subdivision, section 4.

Mr. Whitty submitted a handout to the commissioners for the record. There were several complaints but MSD received no response from the developer.

00:06:03 Commissioner Brown asked if the entire bond would be forfeited (including Public Works). Mr. Whitty said only the MSD bond is being forfeited.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

On a motion by Commissioner Howard, seconded by Commissioner Tomes, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby forfeit the MSD portion of the subdivision bond for Case No. 17MISC1001, Hardwood Forest, section 4.

The vote was as follows:

YES: Commissioners Brown, Carlson, Ferguson, Howard, Lewis, Peterson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Gazaway

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PUBLIC HEARING

CASE NO. 16CELL1004

Case No: 16Cell1004
Request: Cell Tower
Project Name: Dana Drive
Location: 4610R Manslick Road
Owner: First Cumberland Presbyterian Church
Applicant: Eco-Site, Inc. & T-Mobile
Representative: David Pike
Size: 160 feet total height
1,800 square foot compound area
Existing Zoning District: R-5, Residential Single Family
Existing Form District: Neighborhood
Jurisdiction: Louisville Metro
Council District: 15 –Marianne Butler
Case Manager: **Steve Hendrix, Planning Supervisor**

Notice of this public hearing appeared in The Courier Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

Discussion

00:08:32 Mr. Hendrix stated he received a letter from Mr. Pike requesting this case be continued to the April 6, 2017 Planning Commission meeting to investigate other site locations.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

On a motion by Commissioner Tomes, seconded by Commissioner Smith, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the April 6, 2017 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Brown, Carlson, Ferguson, Howard, Lewis, Peterson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Gazaway

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PUBLIC HEARING

CASE NO. 16ZONE1051

Case No: 16ZONE1051
Request: C-1 to C-2
Project Name: Hertz Corporation
Location: 4163 Bardstown Road

Owner: Larry Schwartz
S & A Investments, LLC
7102 Old Henry Road
Louisville, Ky. 40299

Applicant: John Grotto
Hertz Corporation
8501 Williams Road
Estero, Fl. 33928

Representative: Randy Strobo
Downey Strobo Barkley PLLC
239 South 5th Street, Suite 917
Louisville, Ky. 40202

Jurisdiction: Louisville Metro
Council District: 10-Pat Mulvihill
Case Manager: Laura Mattingly, Planner I

Notice of this public hearing appeared in The Courier Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:09:51 Ms. Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

00:16:14 Ms. Mattingly added, proposed binding element 5 will include (e) - A deed of consolidation must be recorded for the two lots shown on the development plan. It will read as follows: A copy of the recorded instruments shall be submitted to Planning

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and Design Services. Transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

The following spoke in favor of this request:

Randy Strobo, 239 South Fifth Street, Suite 917, Louisville, Ky. 40202

Summary of testimony of those in favor:

00:17:44 Mr. Strobo stated he received positive feedback from the community. There are improvements to accessibility, sidewalks and buffering for the neighbor to the east. It meets and exceeds the Comprehensive Plan and the Land Development Code.

Deliberation

00:19:18 Commissioner Tomes stated the plan is appropriate. It's good to get it cleaned up and reused. It meets the Comprehensive Plan.

The other commissioners are in agreement with Commissioner Tomes.

00:20:20 Commissioner Brown elaborated on binding element 5b: "They're not required to come back in for construction approval on anything, I think we would condition the plan transmittal on the issuance of encroachment permits from Transportation Planning and from Ky. Transportation Cabinet, which is standard."

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Zoning Change from C-1 to C-2

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, The site is located in the Suburban Marketplace Corridor Form District Suburban Marketplace Corridors: Suburban Marketplace Corridors are generally located along major roadways with well-defined beginning and ending points and established depths along the length of the corridor. The pattern of development is distinguished by a mixture of medium to high intensity uses. Accommodations for transit users, bicyclists and pedestrians are encouraged in an effort to attract a variety of users

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as well as to minimize automobile dependency and traffic congestion. Connectivity to nearby uses should be encouraged. Developers should be encouraged to design new commercial development in compact groups of buildings, which use the same curb cut, share parking, have a common freestanding sign identifying the uses and have a common buffering or streetscape plan with respect to any abutting uses of lower density or intensity. This form may include medium to high-density residential uses that are designed to be compatible with both the non-residential uses along the corridor and the lower density residential uses in adjacent form districts. Medium density residential uses may serve as a transition area from lower to higher density residential uses and should be encouraged in this form; and

WHEREAS, the Louisville Metro Planning Commission finds, proposed new commercial uses are encouraged, to locate within the boundaries of existing corridors. Reuse of locations within existing corridors is preferred over expansion of a corridor. Proposals to expand defined corridors represent significant policy decisions. When considering proposals that result in an extension of suburban marketplace corridors, particular emphasis should be placed on: (a) use or reuse of land within existing corridors; (b) potential for disruption of established residential neighborhoods; and (c) compliance with the site and community design standards of the Land Development Code; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposal to change the zoning from C-1 to C-2 to allow car rental and sales re-uses an existing auto service facility within an existing commercial corridor. The site is located with other medium to high density commercial uses and fits with the character of the corridor with similar design and setback. Access and streetscape improvements have been made in order to increase vehicular and pedestrian safety and aesthetics of the site. Although it is not required by the Land Development Code as there are no proposed changes to the site, the applicant is also adding screening and additional buffering in order to improve the transition of the commercial use to the residential use to the north. The proposed car rental and sales facility is appropriate for the Suburban Marketplace Corridor form district and follows the pattern of development surrounding the site.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Metro Council, **APPROVAL** of Case No. 16ZONE1051, a change in zoning from C-1 to C-2 based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Carlson, Ferguson, Howard, Lewis, Peterson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Gazaway

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Development Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, There do not appear to be any environmental constraints on the subject site. While the change in use does not trigger tree canopy requirements, the applicant is preserving four large trees on site and planting three additional trees; and

WHEREAS, Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan; and

WHEREAS, There is no open space requirement for this proposal; and

WHEREAS, The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen the residential use to the north and the applicant is providing streetscape improvements that improve the aesthetics from Bardstown Road; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 16ZONE1051, the Detailed District Development Plan and binding elements on page 14 of the staff report with the change to binding element 5b adding: Encroachment permits must be obtained from Kentucky Department of Transportation, Bureau of Highways and Transportation Planning prior to plan transmittal and addition to 5 – add (e) to read as follows: A deed of consolidation must be recorded for the two lots shown on the development plan. A copy of the recorded instrument shall be submitted to Planning and Design Services. Transmittal of approved plans to the office responsible for permit issuance will occur only after the receipt of said instrument; based on the staff report and testimony heard today and **SUBJECT** to the following Binding Elements:

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Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 3,287 square feet of gross floor area for the office use.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from Kentucky Department of Transportation, Bureau of Highways and Transportation Planning prior to plan transmittal.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. A deed of consolidation must be recorded for the two lots shown on the development plan. A copy of the recorded instrument shall be submitted to Planning and Design Services. Transmittal of approved plans to the

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office responsible for permit issuance will occur only after the receipt of said instrument.

6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 16, 2017 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Brown, Carlson, Ferguson, Howard, Lewis, Peterson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Gazaway

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CASE NO. 16ZONE1067

Request: Zone change from R-5 Residential to C-1 Commercial
Project Name: Chiropractor Office
Location: 1100 Milton Street

Owner: Joseph Murrow
1011 Doric Circle
Louisville, Ky. 40205

John and Cheryl Murrow
1603 Sylvan Way
Louisville, Ky. 40218

Applicant: Joseph Murrow
1011 Doric Circle
Louisville, Ky. 40205

John and Cheryl Murrow
1603 Sylvan Way
Louisville, Ky. 40218

Representative: Bardenwerper Talbott & Roberts PLLC
William B. Bardenwerper
1000 North Hurstbourne Parkway
Louisville, Ky. 40223

Jurisdiction: Louisville Metro
Council District: 10 – Pat Mulvihill
Case Manager: **Beth Jones, AICP, Planner II**

Notice of this public hearing appeared in The Courier Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:24:00 Ms. Jones discussed the case summary, standard of review and staff analysis from the staff report.

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00:30:50 Ms. Jones remarked, "Binding element number 9 does deal with the structure as it is and states that the design, style and building materials are to be compatible with single family and commercial in the area. The materials and design of the proposed structures shall be substantially the same as the renderings presented today." Commissioner Howard stated some corrections for binding element 9: the date needs to be corrected and instead of "proposed residences" it should be "proposed structure".

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, 2nd floor, Louisville, Ky. 40223

Rachel Harman, 1623 Edgeland Avenue, Louisville, Ky. 40204

Summary of testimony of those in favor:

00:33:59 Mr. Pregliasco gave a power point presentation and handed out materials to the commissioners. There will be an increase in size and aesthetics of the building. The proposed style and design are modern, but there are several others similar to the proposal in the surrounding area.

00:46:41 Ms. Harman, the architect for this proposal, stated the building will be modern but the materials will be traditional – siding (hardy plank), stone and wood. There are a lot of young people moving to Germantown so it's not a bad idea to go modern.

Deliberation

00:55:49 Commissioner Carlson stated it's a reasonable use for the property. There will be a difference of opinions concerning design issues.

00:57:02 Commissioner Ferguson stated design was in context to the location but not enough of a concern to deny it.

00:57:27 Commissioner Brown said relocating the dumpster has a huge impact on safety. "I would have liked to see it more traditional."

00:57:54 Commissioner Smith said the design doesn't detract from the neighborhood.

00:58:17 Vice Chair Lewis stated the use and zoning change are appropriate. It's a nice looking building.

00:58:44 Commissioner Howard said she doesn't like the box-like look, but the use and zoning are appropriate.

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00:59:07 Commissioner Peterson said he likes traditional style but the modern design should be effective and will be a nice addition to the neighborhood.

00:59:52 Commissioner Tomes remarked, "You're dealing with a neighborhood that has not established, I think, a strong architectural design requirement on a number of structures that have already been modified." Also, the young people may be attracted to a more modern design.

01:00:50 Chair Jarboe stated if it was a larger building it would be out of character with the neighborhood, but it fits especially since all the corner buildings are commercial.

01:01:23 Commissioner Carlson asked if binding element number 9 needs to be adjusted. Counsel agrees – take out the first sentence and reference today's date.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Zoning Change from R-5 to C-1

On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution was adopted.

GUIDELINE 1 – COMMUNITY FORM

WHEREAS, the subject property is located in the Traditional Neighborhood Form District, which is characterized by predominately residential uses from low to high density with neighborhood serving low-intensity commercial located together at activity centers on corners, as is the case in this area of Germantown; and the proposed development is to allow a previously existing low-intensity chiropractor office, which served the neighborhood, to reopen and to provide needed neighborhood low-intensity retail opportunities through the 850 square foot small retail area in the project, as well as additional new apartments to replace the second floor existing apartment providing a mixture of housing types in the predominantly single family residential area; and while the area in Germantown has older homes, this project will allow for revitalization of this property in conformance with the Comprehensive Plan after the casualty loss; and

GUIDELINE 2 – CENTERS

WHEREAS, this Guideline encourages mixed land uses organized around compact activity centers that are existing, proposed or planned in order to promote efficient use of land and

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investment in existing infrastructure; the proposed project is at the corner of Milton Street and Hickory Street, with a similar neighborhood commercial activity center one block to the west at Hickory Street and Burnett with commercial uses, including a dental office on the corner; the infrastructure is already in place for the proposed project to continue the existing nonconforming use, with additional parking being provided through off-street parking spaces being added; and

WHEREAS, Policies 1 of this Guideline suggest locating activity centers on at street intersections like this one; Policy 2 of this Guideline is met as this is an expansion of the current corner activity center one block to the West; and the proposed chiropractor office and small retail area will serve the population surrounding the site and avoid expansion of new retail in outlying areas without an activity center; and

GUIDELINE 3 – COMPATIBILITY

WHEREAS, the proposed project complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 14, 15, 20, 21, 22, 23 and 24 of Guideline 3 because this project will serve the surrounding neighborhood with a small chiropractor office, being an existing neighborhood business, with a small additional retail space to server the surrounding properties as well as apartments above; the proposed project does not involve any known nuisances, such as odors, noises, lighting, aesthetics or traffic different than what already exists in the greater area; setbacks will include compatible side and rear yards with no waivers or variances requested, and the landscape regulations will apply; the detailed district development plan, PowerPoint shown at the public hearing and elevations filed with the application demonstrate all that; this project is located in the same neighborhood as the population that will support it, result in compact development reducing overall vehicle miles traveled, and provide a mixture of compatible uses; the new parking area will be to the rear of the property off the alley, as do others in the area; and this will provide a transition from the adjoining commercial center to the West to the residential in the area; with the proposed building elevations and building materials designed to be compatible with the other commercial properties in the area; and

GUIDELINES 4 AND 5 – OPEN SPACE / NATURAL AREAS AND SCENIC AND HISTORIC RESOURCES

WHEREAS, the proposed project complies with all applicable Intents and Policies 1, 2, 3, 4, 5, 6, and 7 of Guideline 4 and Policies 1 and of Guideline 5 because the project will maintain buffers as provided on the development plan; due to the small nature of the two lots that comprise the project, the open space will be consistent with what is currently located on the two lots as shotgun homes and in the surrounding area; and the elevations submitted show the new project will fit nicely with the neighborhood as to both design and materials; and

GUIDELINE 6 – MARKETPLACE

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WHEREAS, the proposed project complies with all of the applicable Intents and Policies 1, 2, 3, 5, 6, and 11 of Guideline 6 because this project will provide an existing chiropractor business, new small retail space, and apartments to serve both; this project will also provide redevelopment of two underutilized lots to a better and more productive use; and this project will result in a significant investment in an older neighborhood helping to revitalize same; with the development designed to serve the local neighborhood; and

GUIDELINE 7 AND 8 – CIRCULATION AND TRANSPORTATION FACILITY DESIGN; GUIDELINE 9 - BICYCLE, PEDESTRIAN AND TRANSIT; GUIDELINE 12 – AIR QUALITY

WHEREAS, the proposed project complies with all of the applicable Intents and Policies 1, 2, 3, 4, 6, 9, 11, 13, 14, 15, and 18 of Guideline 7; Policies 4, 5, 7, 8, 9, 10 and 11 of Guideline 8; Policies 1, 2, 3 and 4 of Guideline 9; and Policies 1, 2, 3, 4, 6, and 8 of Guideline 12 because this project is situated at a corner where an existing chiropractor business is located and the project will serve the neighborhood thus causing little impact for traffic, etc.; the applicant is adding additional off-street parking to address the parking needs of this development and the area by providing spaces used first before street parking; the project is located along TARC traffic lines allowing ease of access; no additional right of way is requested for dedication; all utilities to serve the project already exist to serve the proposed project; further, this project was reviewed by Metro Transportation Planning Services personnel, who stamped the preliminary plan for approval prior to its docketing for Planning Commission review; and that assures that all of these applicable Public Works standards are complied with, including Policies of the 2020 Land Development Code (LDC); and

WHEREAS, the chiropractor office is an existing business and the apartments and retail to serve the area will not negatively impact traffic as people coming to the project can walk; thus, all negative traffic impacts are avoided with this development; and, as noted, design of the site, as shown on the detailed district development plan accompanying this application assures that corner clearances, with the parking layout changed as a result of comments at LD&T, driveway access, median openings, cross connections, etc. are provided as required – that is, except as some disconnectivity to existing adjoining properties which already exists; and

GUIDELINES 10 AND 11 – STORMWATER AND WATER QUALITY

WHEREAS, the proposed project complies with all applicable Intents and Policies 1, 3, 6, 7, 10 and 11 of Guideline 10 and Policies 3 and 5 of Guideline 11 because MSD will require that post development peak rates of stormwater runoff do not exceed pre-development peak flows; little additional impervious surface is being proposed; thus, new impervious areas will not have a negative impact on existing stormwater systems; also, MSD gave its preliminary stamp of approval on the development plan before docketing for Planning Commission review; at time of

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construction, the proposed subdivision will need to include water quality measures to address the new MSD water quality standards; and any new construction will have to comply with MSD's soil erosion and sediment control standards; and

GUIDELINE 13 – LANDSCAPE CHARACTER

WHEREAS, the proposed project complies with the Intent and applicable Policies 1, 2, 4, 5 and 6 of Guideline 13 because the local LDC requires tree canopies, certain kinds of landscaping for certain kinds of uses and screening and buffering of incompatible uses; and accordingly, the LDC will be fully complied with; and

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books on the approved detailed district development plan, this application also complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan;

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 16ZONE1067, the zoning change from R-5 to C-1 based on the staff report, testimony heard today and the applicant's finding of facts found on tab 8 of their presentation.

The vote was as follows:

YES: Commissioners Brown, Carlson, Ferguson, Howard, Lewis, Peterson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Gazaway

Development Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted.

WHEREAS, The conservation of natural resources on the property proposed for development, including trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views and historic sites. LOJIC shows that these conditions do not currently exist on the site; and

WHEREAS, The development plan has been reviewed by and received preliminary approval from Public Works; and

WHEREAS, There are no open space requirements applicable to the proposal; and

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WHEREAS, The development plan has been reviewed by and received preliminary approval from MSD; and

WHEREAS, the Louisville Metro Planning Commission finds, The site design is compatible with the surrounding area. The residential aspects of the land use are compatible and the chiropractor's office is a continuation of a long-standing non-conforming use. The proposed retail use is an expansion of existing commercial uses located at the intersection of Hickory Street and E. Burnett Avenue directly southwest of the site; and

WHEREAS, the Louisville Metro Planning Commission further finds The development plan conforms to applicable requirements of the Land Development Code. The design of the structure conflicts with Comprehensive Plan regarding consistency of design within the Traditional Neighborhood form district.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 16ZONE1067, the Detailed District Development Plan and binding elements on page 12 of the staff report with the following change to binding element number 9: The materials and design of the proposed structure shall be substantially the same as depicted in the renderings as presented at the February 16, 2017 Planning Commission public hearing. A detail of the elevation and materials shall be provided to staff for review and approval prior to issuance of building permits based on the staff report, testimony heard today and the applicant's finding of facts on tab 8 of their presentation, **SUBJECT** to the following Binding Elements:

Binding Elements

1. Site development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed-upon binding elements unless amended pursuant to the LDC. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Use of the subject site shall be limited to uses permitted in the C-1 district. There shall be no other use of the property unless prior approval is obtained from the Planning Commission. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.

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3. No outdoor advertising signs, small free-standing signs, pennants, balloons or banners shall be permitted on the site.
4. Before any permit, including but not limited to building, parking lot, change of use and/or site disturbance, is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in LDC Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
5. There shall be no outdoor music, outdoor entertainment or outdoor PA system (live, piped, radio or amplified) permitted on the site.
6. The applicant, developer or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with them. At all times during development of the site, the applicant and developer, their heirs, successors and assignees, contractors, subcontractors and all other parties engaged in development of the site shall be responsible for compliance with these binding elements.
7. No idling of trucks shall take place within 200 feet of single-family residences.
8. Lighting on the property shall be installed and maintained in accordance with LDC 4.1.3.
9. The materials and design of the proposed structure shall be substantially the same as depicted in the renderings as presented at the February 16, 2017 Planning Commission public hearing. A detail of the elevation and materials shall be provided to staff for review and approval prior to issuance of building permits.

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The vote was as follows:

**YES: Commissioners Brown, Carlson, Ferguson, Howard, Lewis, Peterson,
Smith, Tomes and Jarboe**

NOT PRESENT AND NOT VOTING: Commissioner Gazaway

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PUBLIC HEARING

CASE NO. 16ZONE1068

Request: C-1 to C-2 with CUP and associated waivers
Project Name: River City Mini-Warehouse
Location: 3383 Freys Hill Road

Owner: River City Realty Group, LLC
Jeff Sleadd
123 Travois Road
Louisville, Ky. 40207

Applicant: River City Realty Group, LLC
Jeff Sleadd
123 Travois Road
Louisville, Ky. 40207

Representative: Land Design & Development
Kevin Young
503 Washburn Avenue
Louisville, Ky. 40222

Jurisdiction: Louisville Metro
Council District: 17 – Glen Stuckel
Staff Case Manager: Beth Jones, AICP, Planner II

Notice of this public hearing appeared in The Courier Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:10:07 Ms. Jones discussed the case summary, standard of review and staff analysis from the staff report.

01:18:40 Ms. Jones stated binding element number 11 needs to be amended – “proposed structure”, materials and design of structure and change the date to February 16, 2017.

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01:19:13 Commissioner Carlson requests striking the first sentence in binding element number 11. Chair Jarboe suggests deleting binding element 11 altogether.

The following spoke in favor of this request:

Tracy Walker, 401 West Main Street, Suite 1200, Louisville, Ky. 40202
Kevin Young, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Summary of testimony of those in favor:

01:21:35 Mr. Walker is the attorney for the applicant/owner.

01:22:18 Mr. Young gave a power point presentation. There is a shared access easement used by at least 3 users. There is a small encroachment in the landscape buffer area (existing conditions).

The neighbors' main concern is outdoor storage, but it was explained that it will be indoor storage.

01:27:13 Vice Chair Lewis asked, "What is the height of the sign attached to the wall? Mr. Young said he's not sure but it does appear to be greater than the 20 feet height relief that's being asked for today. Mr. Davis replied, "We don't do sign reviews as part of the zoning application unless they submit a sign permit to us."

Deliberation

01:34:20 The commissioners agree that it's a good re-use for the property and appropriate; however, Commissioner Carlson suggests that the sign height issue go back to DRC for sign approval so neighbors can be re-noticed and have the opportunity to express any concerns they may have.

The following spoke as other:

Ed Heymann, 10602 Wemberley Hill Boulevard, Louisville, Ky. 40241

Summary of testimony of other:

01:43:23 Mr. Heymann said he has attended neighborhood meetings and everything that was presented there, is being presented here today, except the signage.

01:44:18 **Back to Deliberation**

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01:45:45 Commissioner Peterson stated that the height breaks up the plainness of the corner.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Zoning Change from C-1 to C-2

On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution was adopted.

WHEREAS, The site is located within a Regional Center form district. A Regional Center is a development form that typically contains a mixture of high intensity uses including regional shopping, office, services, entertainment facilities and medium to high-density residential uses. Regional Centers may include a variety of stores under one roof or may consist of freestanding structures. The amount of floor space in regional centers usually exceeds 400,000 square feet, reflecting a market area designed to serve a population of at least 100,000. Redevelopment and infill development are encouraged; and

WHEREAS, Integration of civic uses such as branch libraries, community centers or government offices is encouraged and can strengthen the identity and success of the center. Regional Centers are most appropriately located on or near major arterials, state or interstate highways. Development in Regional Centers should be compact and provide for site accessibility through all means of transportation. A high level of transit access is desirable and Regional Centers should serve as focal points for transit from homes and workplaces. Connectivity and the capacity to handle traffic should be addressed through unified access and circulation. The site plan should encourage pedestrian activity within the Regional Center with human-scale design that provides pedestrian amenities and connectivity between buildings; and

WHEREAS, the Louisville Metro Planning Commission finds, landscaping, building design and unified signs in the Regional Center give character to the development, define and reinforce identity and provide a human scale. A center may include several internal focal points. Several uses sharing a building may have separate entrances and the design of the building facades may mimic a traditional market place corridor or "Main Street." Parking in Regional Centers is provided on a shared basis to avoid excessive impervious area, and the center is designed to encourage customers to visit several establishments without moving their vehicles; and

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WHEREAS, the Louisville Metro Planning Commission further finds Regional Center site design should provide screening of the parking lot and outbuildings as the site is viewed from the arterial roadway. The rear or loading area of buildings should be well screened from arterials, freeways and adjacent residential areas. Human safety or "crime prevention through environmental design" should be a factor in the design of regional centers.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 16ZONE1068, a change in zoning from C-1 Commercial to C-2 Commercial based on the staff report pages 1, 2 and half of 3, information provided today, renderings of the property and testimony today.

The vote was as follows:

YES: Commissioners Brown, Carlson, Ferguson, Howard, Lewis, Peterson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Gazaway

Conditional Use Permit

On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution was adopted.

WHEREAS, The proposed re-use of the property as a mini-warehouse provides a neighborhood service to surrounding residential uses and provides multi-modal access. The parking area is shared with adjoining commercial uses; and

WHEREAS, No exterior structural changes are planned. The use is expected to result in lower traffic volumes; and

WHEREAS, The site is fully served by public utilities and the development plan has been approved by MSD and Public Works; and

WHEREAS, The residential property directly adjacent to the site on the north has been developed for and is in use by the Louisville Water Company. The property adjacent to the east is a narrow strip of land that is undevelopable for residential use. Residential properties across the street to the south are buffered by an existing neighborhood open space. Properties to the west are in compatible commercial use; and

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WHEREAS, The applicant is requesting reliefs and waivers of landscape buffer area requirements, which cannot be met due to the placement of the existing structure on the site. The applicant is making no exterior changes which will worsen existing site conditions; and

WHEREAS, No outdoor storage is proposed; and

WHEREAS, No toxic or hazardous materials will be permitted; and

WHEREAS, The applicant proposes to sell packing materials for the use of clients. This is permissible as an accessory use to the primary use of mini-warehouse; and

WHEREAS, the Louisville Metro Planning Commission finds, the applicant is requesting a waiver based on the height of the existing structure. The applicant is making no exterior changes which will worsen existing site conditions; and

WHEREAS, the Louisville Metro Planning Commission further finds the applicant is re-using the existing sign.

RESOLVED, that the Louisville Metro Planning Commission does hereby give partial relief for Case No. 16ZONE1068, a conditional use permit for use as a mini-warehouse with relief from the Land Development Code 4.2.35.B, a conditional use requirement for a 30 foot landscape buffer area along property lines adjoining R-4 properties because of the existing site conditions and the Land Development Code 4.2.35.G, a conditional use requirement limiting building height to 15 feet based on the existing site conditions and the staff report, pages 3 and 4.

YES: Commissioners Brown, Carlson, Ferguson, Howard, Lewis, Peterson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Gazaway

Development Plan and Binding Elements

On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution was adopted.

WHEREAS, The conservation of natural resources on the property proposed for development, including trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views and historic sites; These conditions do not currently exist on the site; and

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WHEREAS, the addition of a striped pedestrian connection from the existing sidewalk to the structure, the applicant will meet all transportation requirements. The development plan has been reviewed and approved by Public Works; and

WHEREAS, There are no open space requirements applicable to the proposal; and

WHEREAS, the development plan has been reviewed and approved by MSD; and

WHEREAS, the Louisville Metro Planning Commission finds, the land use is compatible with development in the area. The applicant has submitted building elevations showing the exterior of the structure; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

WAIVER 1:

LDC 10.2.4./Table 10.2.2 requiring a landscape buffer

WHEREAS, The waiver is made necessary by existing site conditions and will not result in a worsening of existing conditions; and

WHEREAS, The waiver will not violate Cornerstone 2020; and

WHEREAS, the Louisville Metro Planning Commission finds, the waiver is made necessary by existing site conditions and will not result in a worsening of existing conditions; and

WHEREAS, the Louisville Metro Planning Commission further finds exterior elevations for the existing structure appear to be an improvement over existing conditions.

WAIVER 2:

LDC 10.2.10 requiring a 10 foot LBA along Freys Hill Road

WHEREAS, The waiver is made necessary by existing site conditions and will not result in a worsening of existing conditions; and

WHEREAS, The waiver will not violate Cornerstone 2020; and

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WHEREAS, The waiver is made necessary by existing site conditions and will not result in a worsening of existing conditions; and

WHEREAS, Exterior elevations for the existing structure appear to be an improvement over existing conditions.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 16ZONE1068, the Revised District Development Plan with waivers from the Land Development Code 10.2.4 table 10.2.2 requiring a 30 foot landscape buffer area along property lines adjoining R-4 properties based on the site conditions, the existing building already in place and the staff report, middle of page 5; also, Land Development Code 10.2.10 requiring a 10 foot landscape buffer area along Freys Hill Road based on the same reasons, the waiver will not adversely affect the adjoining property owners and the waiver is necessary because of the existing site conditions; also, the proposed signage will be presented to DRC for approval; also, the binding elements with a change to number 11 – remove the first sentence, change “structures” to “structure”, change the date to February 16, 2017 and the height and signage requirements will come back to the Development Review Committee with prior notice to adjoining neighbors in accordance with the regulations of the Land Development Code and binding element number 3 - The development shall not exceed 36,000 square feet of gross floor area, **SUBJECT** to the following Binding Elements:

Commissioner Howard **AMENDED** the motion to delete binding element number 3. Commissioner Peterson accepts the amended motion.

Binding Elements

1. The site shall be maintained in accordance with all applicable sections of the Land Development Code (LDC) and agreed-upon binding elements unless amended pursuant to the LDC. Changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or to its designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Use of the subject site shall be limited to mini-warehouse and other uses permitted in the C-2 Commercial district. There shall be no other use of the property without prior approval of the Planning Commission. Notice of a request to amend these binding elements shall be provided in accordance with Planning Commission policies and procedures. The Planning Commission may require a public hearing on any request to amend these binding elements.

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3. All signs shall be in accordance with LDC Chapter 8 sign regulations. No outdoor advertising signs, small freestanding signs, pennants, balloons or banners shall be permitted on the site.
4. There shall be no outdoor music from any source, outdoor entertainment or outdoor PA system usage permitted on the site.
5. All lighting shall comply with the requirements of LDC 4.1.3, including any special requirements for the Regional Center form district.
6. The applicant, developer or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development and/or use of this site and shall advise them of the content of these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors and assignees, contractors, subcontractors and other parties engaged in development of the site shall be responsible for compliance with these binding elements. These binding elements shall run with the land and the owner(s) and occupant(s) of the property shall at all times be responsible for compliance with them.
7. No outside storage shall be allowed on the property.
8. No storage of toxic or hazardous materials shall be allowed on the property.
9. Retail activities shall be limited to those which are an accessory use to the primary use of the site as a mini-warehouse.
10. Materials and design of the structure shall be substantially the same as depicted in rendering(s) as presented at the February 16, 2017 Planning Commission public hearing. The height and signage requirements will come back to the Development Review Committee with prior notice to adjoining neighbors in accordance with the regulations of the Land Development Code.

The vote was as follows:

YES: Commissioners Brown, Carlson, Ferguson, Howard, Lewis, Peterson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Gazaway

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee
No report given.

Site Inspection Committee
No report given.

Planning Committee
No report given.

Development Review Committee
No report given.

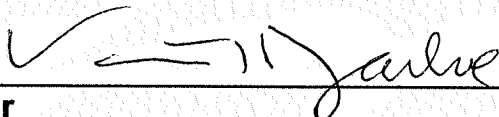
Policy and Procedures Committee
No report given.

CHAIRPERSON/DIRECTOR'S REPORT


No report given.

ADJOURNMENT

The meeting adjourned at approximately 3:30 p.m.



Chair



Planning Director